



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

340461



November 2, 1999

Anthony D. Pistone, Esq.  
Suite 205  
163-10 Northern Boulevard  
Flushing, NY 11358

Dear Mr. Pistone:

I am writing in accordance with my telephone conversations of November 2, 1999, first with you and then with your co-counsel Richard Piccola, concerning the Nelson Galvanizing facility at 11-02 Broadway, New York City (Long Island City), New York (the "facility") which was formerly operated by your clients.

In our telephone conversation, I told you that the United States Environmental Protection Agency ("EPA") had determined that a cleanup "removal" response action needed to be undertaken at your clients' facility pursuant to the Superfund law (Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. §§9601-9675). EPA has reserved approximately \$800,000 for this action although the actual costs could be less or more depending upon the extent of activity required to address actual conditions encountered during the cleanup.

I also told you that at the present time, it appeared likely that EPA would identify Nelson Galvanizing, Inc., Nelson Foundry, Inc. and John Sweeney as parties who are potentially responsible under CERCLA for the cleanup at the facility. However, formal determination and formal notification of CERCLA responsibility is made by the Emergency and Remedial Response Division of EPA and that determination has not yet been completed. You advised me that neither Nelson Galvanizing, Inc., Nelson Foundry, Inc. nor John Sweeney would be able to perform the cleanup action because, for among other reasons, they lacked the financial resources to perform the action. Under CERCLA, EPA may order responsible parties to perform a cleanup if EPA determines that they would be able to do so promptly and properly or, in the event EPA performed the cleanup with federal resources, EPA may seek to recover its expenditures from responsible parties.

Because your clients will not be able to perform the cleanup action, I told you that it would become necessary for EPA to perform the cleanup action with federal resources and that EPA would seek the consent of your client to access the property so that it could perform the cleanup action. You told me that your client would cooperate with EPA's request for access and I advised you that I would send EPA's "Consent for Access to Property" form for signature by or

on behalf of your clients. You advised me to send all communications to you, as attorney for the Nelson Galvanizing interests. Your co-counsel, Richard Piccola also confirmed that all communications could be sent to you.

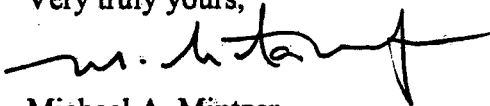
By this letter, EPA is seeking access to the facility for purposes of conducting a removal response action pursuant to CERCLA. Statutory authority for EPA to request entry is contained in CERCLA § 104(e)(3), 42 U.S.C. §9604(e)(3) and EPA regulations concerning entry are codified at 40 Code of Federal Regulations ("CFR") §300.400(d).

Enclosed is EPA's "Consent for Access to Property" for the Nelson Galvanizing facility. EPA requests that this document be signed by or on behalf of your client. Following signature, please send a copy by FAX to me at (212) 637-3115 followed by the original signed copy by mail to me at the following address:

Michael A. Mintzer  
Assistant Regional Counsel  
US Environmental Protection Agency  
290 Broadway  
New York, NY 10007-1861

I am enclosing a copy of EPA's Action Memorandum dated September 30, 1999 which provides background on the proposed cleanup action. If you have any questions, please call me at (212) 637-3168.

Very truly yours,



Michael A. Mintzer  
Assistant Regional Counsel  
Office of Regional Counsel